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Attorney Docket: 08919-116001 / 07A-920912

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Andy Kung	Art Unit	: 2856
Serial No.	: 10/760,633	Examiner	: Rodney T. Frank
Filed	: January 20, 2004		
Title	: ULTRAVIOLET PHOTOACOUSTIC OZONE DETECTION		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT DATED JUNE 13, 2005

The applicant traverses the 3-way restriction and provisionally elects claims 1-12 and 25-31 for prosecution. The applicant proposes that all of the claims (claims 1-42) be examined together.

35 U.S.C. § 121 reads, "If two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions." Thus, restriction is proper only if the inventions are "independent and distinct." According to M.P.E.P. 802.01, the meaning of "independent" and "distinct" are as follows:

> INDEPENDENT
> The term "independent" (i.e., not dependent) means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation or effect, for example, (1) species under a genus which species are not usable together as disclosed or (2) process and apparatus incapable of being used in practicing the process.

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CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

August 15, 2005
Date of Deposit

Linda M. White
Signature

Linda M. White
Typed or Printed Name of Person Signing Certificate

DISTINCT

The term "distinct" means that two or more subjects as disclosed are related, for example as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art). It will be noted that in this definition the term "related" is used as an alternative for "dependent" in referring to subjects other than independent subjects.

The Examiner has made no showing whatsoever that the claimed inventions are INDEPENDENT.

The Examiner has not shown that the claims in each group "ARE PATENTABLE (novel and unobvious) OVER EACH OTHER." Should the requirement for restriction be made final, the Examiner is respectfully requested to rule that the claims in each Group "ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

M.P.E.P. 803 provides, "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." The claims in groups II and III can be searched and examined without serious burden because search for prior art related to the claims of Group I entails search in connection with the claims in groups II and III.

The Examiner contends that inventions I, II, and III are related as combinations and subcombinations. However, this fact has nothing to do with requirements for establishing that the groups I, II, and III are both independent and distinct, and that search and examination of the claims associated with the inventions I, II, and III cannot be made without serious burden.

Please apply any charges or credits to deposit account 06-1050, referencing attorney docket 08919-116001.

Respectfully submitted,

Date: 8/15/2005

Rex Huang

Rex I. Huang for
Y. Rocky Tsao, Reg. No. 34,053

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

** See attached document certifying that Rex Huang has limited recognition to practice before the U.S. Patent and Trademark Office under 37 CFR § 11.9(b).*

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